United Nations A/HRC/26/NGO/37

General Assembly

Distr.: General
4 June 2014

English only

Human Rights Council
Twenty-sixth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by the International Humanist and Ethical Union, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.14-04149
1404149

Please recycle

The right to freedom of expression includes the right to question belief

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), guarantees that everyone shall have the right to freedom of expression[1]. Analogous guarantees of the right can be found in a number of international conventions including the Universal Declaration of Human Rights[2] and the African Charter on Human and Peoples' Rights[3].

Not only is freedom of expression a fundamental right enshrined in law, but it is a fundamental value underpinning civilised and free society. It is a value that ensures the personal autonomy of the individual to express her views, and treats people as agents who can be trusted to debate, question, and together strive for progress. Freedom of expression is not only important for individual dignity but also integral to participation, accountability and democracy.

Despite that when taken together, consecutive articles 18 and 19 indisputably protect the right to free expression of "thought, conscience and religion", a key area in which there are consistent denials of freedom of expression is expression of religion or belief. These denials are frequently manifested as blasphemy laws or legislation against the 'defamation of religions'. Such laws tend to rely upon an abusive invocation of public morality with specific regard to religion, using the subjective and mutable notion of 'offense' to curtail free expression. Imbuing religious belief with a particular sensitivity to being offended, the weapon of taking offense effectively acts to shut down free speech, partly because it is difficult to challenge a response that is so subjective by nature.

Laws against so-called blasphemy are promoted and entrenched in many countries across the world[4], as well as within the international institutional arena[5], and have become an increasingly common way for governments to silence debate; not only debate about religion *per se* but to silence dissenting views on politics[6], calls for individual freedoms[7], or to provoke hatred against minorities[8].

Whilst traditional defamation laws punish false statements of fact that harm individual persons, by contrast blasphemy and defamation of religion laws have sought to punish the peaceful criticism of ideas. What is notable and deeply troubling about criminalizing blasphemy is that not only does it contravene the right of every individual to express herself freely, but also her right to freedom of religion or belief. The concept of 'defamation of religions' is fundamentally inconsistent with universal principles outlined in articles 19 of the ICCPR, which affirms the protection of the rights of individuals, not ideas[9]. Respect for individuals and respect for beliefs should not be confused: to enforce the latter by shielding beliefs is to deny the former for every person.

---

[1] http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx
[2] http://www.un.org/en/documents/udhr/
[3] http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf
[4] There are 55 countries with blasphemy laws, or other laws forbidding criticism or "insult " to religion. In 39 of those countries with blasphemy laws, the law mandates a prison sentence for blasphemers, and in three people can be executed for it.
[5] In the past, resolutions on "Combating Defamation of Religions" were adopted, in a variety of versions, by the UN Commission on Human Rights in 2002, 2003, 2004, and 2005 and by the UN Human Rights Council in 2006, 2007, 2008 and 2009. Similar resolutions were adopted by the UN General Assembly in 2005, 2007 and 2008.
[6] http://iheu.org/prominent-atheist-blogger-remains-danger-pending-blasphemy-trial-bangladesh/
[7] http://iheu.org/iheu-protests-gratuitous-violent-sentence-handed-to-saudi-liberal-activist/
[8] http://iheu.org/pakistan-time-has-come-politicians-police-and-clerics-must-confront-blasphemy-mobs-unison-and/
[9] This is supported by the UN Special Rapporteur on Freedom of Opinion and Expression, amongst others: http://www.oas.org/en/iachr/expression/showarticle.asp?artID=735&lID=1

Article 19.3 states that the right to free expression can only be restricted when seen as necessary for the "respect of the rights or reputations of others" and for the "protection of national security or of public order, or of public health or morals". Restrictions on grounds not specified within the article are prohibited[10]; 'defamation of religions' is not among the specified grounds allowing restrictions on the freedom of speech.

The Rabat Plan of Action recommends that all blasphemy laws be repealed given the stifling impact of such laws on the enjoyment of freedom of belief[11], as has the UN Special Rapporteur on freedom of religion or belief[12].

In parallel with this refutation of defamation of religions as a legitimate issue within the human rights framework, it is important to note that existing international legal instruments already address discrimination, personal defamation, and incitement in ways that are more carefully focused to confront those specific problems without unduly threatening the rights of freedom of expression and freedom of thought, conscience and religion.

Despite recent consensus at the international level that the concept of 'defamation of religions' does not accord with international standards, and that blasphemy laws should be repealed, just in the past year, we have seen many people arrested and imprisoned for blasphemy or insulting religion. Cases include:

- In June 2013, an Egyptian writer, Karam Saber, was sentenced to 5 years in prison on the grounds of religious defamation because some said his book (*Ayn Allah /Where is God?*) was an invitation to blasphemy and atheism, an incitement to polytheism, an offense of the divine, and a defamation of religion[13]. His sentencing was upheld earlier this year[14].

- In 2013, four atheist Bangladeshi bloggers were arrested and charged with defaming Islam under the country's penal code[15]. The government published a full list of 84 individuals, all of whom face immense personal danger in their home country.

- In January 2014, Mauritanian blogger, Cheikh Ould Mohamed M'Kheitir, was arrested for publishing an article seen by some as lacking respect for the prophet Muhammad and an act of apostasy. The latter is punishable by death, according to Article 306 of the Mauritanian penal code.[16]

- In the same month, in Pakistan a Briton was sentenced to death on the grounds of blasphemy[17].

- After being released from jail in March 2014, where he had been serving time for posting caricatures of the Muslim Prophet Mohammad, Jabeur Mejri, an atheist activist was sent back to prison this month[18].

- Also this month, Raif Badawi, Saudi Arabian co-founder of a liberal website, was sentenced to 10 years in prison,

---

[10] See Human Rights Committee, Communication No 1022/2001, Velichkin v Belarus, CCPR/C/85/D/1022/2011, Views adopted on 20 October 2005.

[11] http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

[12] A/HRC/25/58.

[13] http://www.sampsoniaway.org/fearless-ink/2013/10/07/defamation-of-religions-is-haunting-egypt's-writers/

[14] http://allafrica.com/stories/201403121535.html

[15] http://www.rawstory.com/rs/2013/03/27/bangladesh-widens-crackdown-on-blasphemous-atheist-bloggers/

[16] http://www.state.gov/documents/organization/192947.pdf

[17] http://www.telegraph.co.uk/news/worldnews/asia/pakistan/10595398/British-schizophrenic-sentenced-to-death-for-blasphemy-in-Pakistan.html

[18] http://english.alarabiya.net/en/News/middle-east/2014/05/21/Tunisian-jailed-after-pardon-for-blasphemous-cartoons-.html

1,000 lashes and a fine of 1 million Saudi riyals in connection with an online forum for public debate he set up and accusations that he insulted Islam. Badawi, was first jailed for seven years in 2012 for violating Saudi Arabia's IT law and insulting religious authorities through his online writings and hosting those of others on his website[19].

Against all international standards and understandings of basic human rights and dignity, these individuals have been arrested or imprisoned for merely expressing their views or questioning religious doctrine. The cases are not unique; they are just a few out of countless cases across the world. Relying on notions of offense or insult when it comes to silencing criticism of ideas not only runs counter to the international guarantee of the right to freedom of expression and opinion, but it forgets that respect comes in the form of treating other people's views as those of autonomous agents and worthy of consideration and questioning. People have no right not to be offended. Freedom of expression is vital for cohesion and progress of thought in society and constitutes the underpinning of any society which values equality, human dignity and progress.

Accordingly, we urge the UNHRC to:

- Ensure signatories of the ICCPR fulfill their obligations with regard to article 19 of that convention. Where states are not signatories or where they have reservations to articles 18 or 19, they should be encouraged by all possible means to sign the convention and withdraw reservations. With reference to the case studies above, we note that Saudi Arabia is not a signatory of the ICCPR. Saudi Arabia is a newly elected member of the HRC.

- Call on all states to take active steps to prevent violence against journalists, writers and other media actors, with particular attention paid to those seeking to question or criticise religious or non-religious belief, practices or authorities.

- Pressure states to publicly condemn, and more urgently, investigate violence against those exercising their free expression. In order to ensure the follow-up on cases of violence and promote the fight against impunity, the UNHRC might encourage international trial observation.

- Successfully oversee the universal implementation of the UNGA Resolution on "The safety of journalists and the issue of impunity"[20] and the UN Plan of Action on the same subject[21].

- Encourage better protection of journalists through exchange of good practices between states, government officials, law enforcement officers, and members of the judiciary. Awareness raising, capacity building and security enhancement should be facilitated by learning from the experiences of those in media.

- Vote against any resolutions on the "defamation of religions", for they necessarily infringe article 18 and 19 rights for everybody

---

[19] http://www.amnesty.org/en/news/thousand-lashes-and-10-years-prison-online-saudi-arabian-activist-2014-05-07

[20] A/RES/68/163.

[21] See "Implementation Strategy 2013/2014, UN Plan on the safety of journalists and the issue of impunity"